

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

BENJAMIN EUGENE GREEN, JR.,

Petitioner,

v.

CIVIL ACTION NO. 2:14-cv-17494
(Criminal No. 2:99-cr-00057)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the Court are Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (the "Petition"), (ECF No. 73), and Petitioner's letter-form "motion to be heard" (the "Motion"), (ECF No. 85). By Standing Order filed in this case on July 9, 2014, this action was referred to United States Magistrate Judge Cheryl A. Eifert for total pretrial management and submission of proposed findings of fact and recommendations for disposition. (ECF No. 75.) On December 23, 2015, Magistrate Judge Eifert filed proposed findings of fact and recommendations for disposition (the "PF&R"), in which she recommends that the Court deny the Petition and the Motion, dismiss this case with prejudice, and remove this matter from the Court's docket. (ECF No. 90 at 13–14.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this

Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to the PF&R were due by January 11, 2016. (*See* ECF No. 90 at 14.) To date, no party has filed an objection to the PF&R.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 90), **DENIES** the Petition, (ECF No. 73), and the Motion, (ECF No. 85), **DISMISSES** this case **WITH PREJUDICE**, and **DIRECTS** the Clerk to remove this matter from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 11, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE